

QUESTIONS & ANSWERS ABOUT MOU FOR RISK MITIGATION AT CALIFORNIA RAILYARDS

Who are the parties to the MOU?

The California Air Resources Board (CARB), the Union Pacific Railroad and the BNSF Railway.

What does the MOU require?

- A statewide idling-reduction program, to eliminate all non-essential idling through the use of automatic shut-down devices and operational changes.
- Maximum use of state or federal low sulfur diesel in locomotives fueled in California, six years earlier than required by federal regulations.
- A statewide visible emissions reduction and repair program to ensure the incidence of smoking locomotives to less than 1% and to ensure repairs within 96 hours.
- Health risk assessments for all major rail yards within 30 months.
- Detailed evaluation of advanced control measures that could reduce diesel particulate emissions up to 90% from uncontrolled levels from applicable locomotives.
- Assessment of remote sensing technology to identify high emitting locomotives.
- Community and air district involvement in the preparation of risk assessments, CARB enforcement of MOU provisions, and the evaluation and development of further measures.
- Enforcement provisions and financial penalties for noncompliance with the MOU.

How does this MOU affect the prior railroad MOU for the South Coast Air Basin?

This MOU is supplemental to the original MOU. In 1998, ARB signed a groundbreaking MOU with Class I railroads, wherein they committed to a complete turn-over of their locomotive fleet in the South Coast air basin, between 2005 and 2010, using the cleanest available technology (federal Tier 2 engines or the equivalent). That MOU remains in effect today and is the single most aggressive retirement program for any mobile source in the country.

Why doesn't ARB just regulate the railroads, instead of using MOUs?

Source: ARB – 6/24/05

MOUs are the preferred approach to state level emission control strategies for railroads because they achieve real benefits immediately and avoid the issue of federal preemption. The national Clean Air Act has sweeping language protecting railroads and the interstate commerce they represent from state interference. Only the most limited police powers to address nuisances, traffic disruption, or public safety can be reserved to the states. State imposed air quality controls are further restricted to those measures that do not affect the locomotive engines themselves.

What else is CARB doing to reduce railroad emissions?

The two railroad MOUs are just part of California's comprehensive efforts to reduce emissions from railroads. There are also several state and federal rulemakings underway, the Carl Moyer program and other incentive efforts, and Governor Schwarzenegger's Goods Movement Action Plan for California's ports, railways and highway system.

What prompted this Memorandum of Understanding (MOU)?

In 2003, the California Air Resources Board (CARB) conducted an assessment of the Roseville rail yard with the cooperation with the Placer County Air Pollution Control District and Union Pacific Railroad. As a result of this cooperative effort, CARB and major railroads began negotiations to develop a statewide package of actions now required by this new MOU.

What's the bottom line?

In ARB's view, this new MOU has highly positive effects. This new MOU contains numerous measures that will be instituted immediately to improve air quality in and around rail yards. By using a cooperative approach, California has also avoided implementation delays due to disagreements over the State's legal authority. Furthermore, future opportunities are not foreclosed. The railroads and CARB agree that this MOU is another groundbreaking step in an ongoing effort to address the environmental impacts associated with California's railroads, ports and similar facilities.